UNITED
NATIONS

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Economic and Social Council

PROVISIONAL

E/1995/SR.3
22 February 1995

ORIGINAL: ENGLISH

Organizational session for 1995

PROVISIONAL SUMMARY RECORD OF THE 3rd MEETING

Held at Headquarters, New York,
on Wednesday, 8 February 1995, at 10 a.m.

President: Mr. KAMAL (Pakistan)

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95-80293 (E)

The meeting was called to order at 10.55 a.m.

TRANSFORMATION OF THE COMMITTEE ON FOOD AID POLICIES AND PROGRAMMES OF THE WORLD FOOD PROGRAMME INTO AN EXECUTIVE BOARD

The PRESIDENT drew attention to the note by the Secretary-General on the item (E/1995/9) and said that since more time was needed for informal consultations on the matter, he had been requested to postpone its consideration until the resumed organizational session for 1995.

It was so decided.

FULL PARTICIPATION BY THE EUROPEAN COMMUNITY IN THE COMMISSION ON SUSTAINABLE DEVELOPMENT

The PRESIDENT drew attention to draft decision E/1995/L.51, submitted by Germany.

Mr. DELACROIX (France), speaking on behalf of the European Union, proposed that the first line of paragraph (b) of the draft decision should be amended to read "Similar arrangements would apply, upon a decision by the Council, ...".

Mr. MABILANGAN (Philippines), speaking on behalf of the Group of 77 and China, said that after informal consultations, it was generally felt that the European Community could continue to represent its member States in issues of its competence. The Group of 77 and China would agree, provided that it was clear that the European Community would act only in the Commission on Sustainable Development, and that its participation would not exceed that which was provided for in rule 69 of the rules of procedure governing observer States.

The PRESIDENT said that, in formulating its position on the full participation of the European Community in the work of the Commission on Sustainable Development, the Economic and Social Council was guided by the specifications given by the European Community on the nature and extent of the competences transferred to it by its member States on matters relevant to the work of the Commission. To that end, the European Community had provided full information on the legislation adopted by the European Community in relation to the relevant Agenda 21 chapters as well as on the international agreements in those areas signed by the European Community, and a general indication, where

possible, of the matters falling within exclusive competence in accordance with the Community Treaties.

In order to enhance the efficiency of the Commission's work, the European Community would update, as appropriate, the specifications provided. The Presidency of the Council of the European Union, acting on behalf of the European Community and its member States, would inform the Commission, before the substantive discussion of each specific agenda item in the course of its formal meetings, who would be the representative with respect to that item, and of any changes in that information resulting from subsequent developments. In that respect, the Economic and Social Council welcomed the clarification provided by the letter dated 2 November 1994 from the Presidency of the Council of the European Union.

It was the understanding of the Economic and Social Council that similar arrangements would apply in the consideration of any future requests for the participation in the work of the Commission of any other regional or subregional economic integration organization.

While taking into account paragraph 13 of the Secretary-General's report (E/1993/12), the Economic and Social Council, in formulating its position, acknowledged that the Commission when organizing informal meetings, should be guided by the statement made by the Presidency of the European Union on behalf of the European Community and its member States.

Mr. DELACROIX (France), speaking on behalf of the European Union, said that the European Community and its member States considered that, given the nature and extent of the powers transferred to the European Community and given that these powers were closely interlinked and complementary to those of the member States, the European Community would be invited to participate in meetings of an informal nature in areas within its sphere of competence to which a member State of the European Community had been invited, so that discussions and the seeking of general agreement within the Commission would be all the more effective.

The European Community and its member States also wished to point out that in cases of mixed competence the member States would be able to speak in support of, and/or add to, the Community statement.

The Council's decision applied specifically to the case of the Commission on Sustainable Development.

The European Community would lend its support, for the sake of the effectiveness of the Commission, to other regional economic integration organizations that might request similar arrangements provided that any such organization possessed the characteristics set out in paragraph (b) of the draft decision of the Economic and Social Council.

He emphasized that the issue before the Council was very important to the States of the European Community, and hoped that the draft decision would be adopted by consensus.

Ms. WILLIAMS-MANIGAULT (United States of America) said that her delegation wholeheartedly supported the participation of the European Community in the work of the Commission on Sustainable Development; the draft decision before the Council properly reflected the important role that the European Community could play in the work of the Commission on Sustainable Development and its subsidiary bodies.

While understanding that there was no intention on the part of the European Community to exercise the rights of members of the Commission on Sustainable Development as such, her delegation believed that the sui generis nature of the European Community justified the specific rights accorded to it by the decision. Thus, if the European Community was to make the desired contribution to the work of the Commission, it was important that it should have the right to speak and reply and to introduce proposals and amendments. It was also important that the European Community should be able to submit proposals which would be put to a vote if any member so requested. The decision according the European Community these rights was not intended to and did not accord to the European Community the right to make procedural motions. That right was tied directly to the right to vote, which was not accorded to the European Community.

Similarly, the right to raise points of order also implied the right to call for a vote since the decision on points of order which were challenged required a vote. However, by the proposed decision, the Commission would provide the European Community with a right to make a point of order limited to a particular situation where a final decision was about to be made on a matter in respect of which the European Community was acting as representative of its members in accordance with the proposed decision, but where consultations among the European Community and its member States were continuing. Moreover, the proposed decision specifically withheld from the European Community the right to

challenge a decision of the presiding officer on the limited point of order. None the less, her delegation understood that the purpose of that provision was to permit the European Community and its member States a reasonable opportunity to engage in consultations before a matter on which the European Community was representative, in accordance with decisions and rules of the Commission, was to be voted on or decided by consensus.

The decision also addressed the participation in the Commission of other regional economic integration organizations, if and when such organizations came into being. Her delegation welcomed that provision. When any such organizations were formed in the future, that provision would ensure that they would be entitled to exactly the same rights as those accorded to the European Community, if they chose to participate in the work of the Commission.

She welcomed the statement of the Presidency of the European Union on behalf of the European Community and its member States. The statement provided further guidance as to what was intended by the proposed decision and the views of the European Community and its members as to European Community participation in informal meetings.

The statement provided further guidance on how the proposed decision was intended to operate regarding areas of mixed competence. It made clear that in such situations, where the European Community, either through the European Commission or the European Union Presidency, was the entity to which members of the Commission on Sustainable Development were entitled to look during negotiations on that item in the Commission, member States of the European Community would be free to speak in support of and to add to the statements on that subject by the European Community. She noted that neither the Community nor its member States intended that such statements would contradict the European Community's statement.

That was consistent with her delegation's understanding, as reflected in the statement of the President of the Economic and Social Council, that for the proper and efficient working of the Commission on Sustainable Development, members of the Commission were entitled to be informed who would be the representative with respect to a specific item on the agenda. Furthermore, her delegation understood from the letter of 2 November 1994, from the European Union Presidency to the President of the Economic and Social Council, that in those instances where the European Union member States were unable to arrive at

a common position on an agenda item involving mixed competence, the European Union Presidency would notify the members of the Commission that they could look to European Union member States individually in the negotiation on such an item, and not to the European Union Presidency. In such instances the European Community would not speak.

She also welcomed the statement by the Presidency of the European Union that the European Community would be invited to participate in meetings of an informal nature in areas of competence to which a member State of the European Community had been invited. She understood that the statement was not intended to cover every conceivable informal meeting, but referred to informal meetings held by the Commission itself, such as working groups, or meetings called by the Chairman of the Commission. Of course, a question might arise as to whether the subject matter to be discussed at such an informal meeting fell within the sphere of competence of the European Community. She was confident that such questions would be easily resolved.

In that respect, she welcomed the statement of the President of the Economic and Social Council acknowledging that, regarding such informal meetings, the Commission should be guided by the policy enunciated in the statement of the Presidency of the European Union on behalf of the European Community and its member States. While it was understood that that policy was not binding upon the Commission and its members as such, her delegation agreed that as a general rule that policy would contribute to the effectiveness of discussions seeking general agreement within the Commission.

As explained in the President's statement, the proposed decision was based on the understanding that the European Community would provide the Commission on Sustainable Development with general specifications on the nature and extent of powers transferred to the European Community by its member States and a general indication, where possible, of the matters falling within the exclusive competence in accordance with the European Community treaties. It would also be made clear who was to represent the European Community in respect of each agenda item. Thus, in some instances it might be appropriate to look to the European Community because the member States had transferred competences in a given area to the European Community, while in other instances it might be appropriate to look to the member States. That information, to be provided by the Presidency of the European Union on behalf of the European Community and its member States,

was necessary and appropriate for the effective work of the Commission since it would permit members to identify to whom they should look in seeking to reach general agreement on each item.

The decision and the statements of the Presidency of the European Union and the President of the Economic and Social Council reflected the enormous efforts that had gone into ensuring the participation of the European Community in the work of the Commission, while reflecting the sui generis character of the European Community. Those actions would ensure the effective working of the Commission on Sustainable Development and its subsidiary bodies while enabling the European Community to contribute to the important tasks faced by the Commission in the coming years.

Mr. ISAKOV (Russian Federation) said his delegation supported the draft decision, and believed that the participation of the European Community would enable the Commission to become more effective and produce improved results in the interest of all member States.

His delegation wished to draw particular attention to paragraph (b) of the draft decision, which provided that similar arrangements would apply to any other regional or subregional economic integration organization, subject to the appropriate criteria. In future, the Commonwealth of Independent States could be one such organization.

Mr. HUDYMA (Ukraine) said his delegation also supported the draft decision, which would make the Commission's work more effective and useful. It should however be remembered that the European Community was a highly integrated organization, possessing a special nature; its member States also had the competence to make their own decisions on individual issues, which would make it possible for them to participate fully in the work of the Commission. He drew attention to the fact that, regarding any requests from other organizations to participate in the work of the Economic and Social Council and its subsidiary bodies, each case should be decided on an individual basis and after careful consideration of the relevant legislation regarding the transfer of powers.

Draft decision E/1995/L.51, as orally amended, was adopted.

Mr. HORIGUCHI (Japan) welcomed the adoption of the decision. After carefully reviewing the legal ramifications of the issues concerned, and taking into account the valuable contributions already made by the European Community to the Commission, his delegation had been pleased to join the consensus on the

decision. The latter had been drafted with great care to ensure the full participation of the European Community, while avoiding so far as possible any double representation of member States. He also noted that the decision applied only to participation in the Commission on Sustainable Development.

Regarding paragraph (b) of the decision, he stressed the importance of carefully reviewing the nature and degree of the transfer of national sovereignty to regional economic organizations when considering any similar arrangements in future, in order to ensure fair and equitable representation of States at intergovernmental forums of the United Nations.

Mr. LOZANO (Mexico), supported by Ms. WILLIAMS-MANIGAULT (United States of America), expressed his delegation's support for the decision and requested that, in order to avoid any future misunderstanding regarding the work of the Commission on Sustainable Development, the text of the decision and of the statements made by the President and by the representative of France should be appended to the programme of work of the Commission on Sustainable Development.

The PRESIDENT said he took it that the Council wished to accede to the request of the representative of Mexico.

It was so decided.

Mr. DELACROIX (France), speaking on behalf of the European Union, welcomed the decision and thanked the members of the Economic and Social Council for the positive approach that they had taken during the current meeting and throughout the consultation process.

The meeting rose at 11.50 a.m.